

Sealed Correspondence

U.S. v. Tsarnaev, 13-CR10200-GAO

See Footnote 6 to Dkt. No. 388



U.S. Department of Justice

Carmen M. Ortiz
United States Attorney
District of Massachusetts

Main Reception: (617) 748-3100

John Joseph Moakley United States Courthouse
1 Courthouse Way
Suite 9200
Boston, Massachusetts 02210

May 23, 2014

BY HAND DELIVERY

Miriam Conrad, Esq.
Timothy Watkins, Esq.
William Fick, Esq.
Judy Clarke, Esq.
David Bruck, Esq.
Federal Defender's Office
51 Sleeper Street, 5th Floor
Boston, MA 02210

Re: United States v. Dzhokhar Tsarnaev, Crim. No. 13-10200-GAO

Dear Counsel:

We write to call to your attention a fact of which you may already be aware. It is the government's understanding that Mr. Brendan Garvin, Deputy Clerk to Magistrate Judge Marianne B. Bowler, was present at the Forum Restaurant, 755 Boylston Street, Boston, on April 15, 2013 when the explosive device was detonated in front of the restaurant during the running of the Boston Marathon. Mr. Garvin, like many others in the area, was not injured and will not be a witness in any case. It is the government's understanding that Judge Bowler is aware that Mr. Garvin was at the Forum at the time of the explosion.

As you know, Judge Bowler is the Magistrate Judge who was assigned to *United States v. Tsarnaev*, MJ No. 13-02106-MBB. We call the foregoing fact to your attention only in an abundance of caution, since Deputy Clerks play a non-decisional role in matters in this court.

Sincerely,

CARMEN M. ORTIZ
United States Attorney

By: /s/Aloke Chakravarty
Aloke Chakravarty
William Weinreb
Nadine Pellegrini
Assistant U.S. Attorneys

CLARKE & RICE, APC
1010 Second Avenue, Ste. 1800
San Diego, California 92101
(619) 308-8484

FEDERAL PUBLIC DEFENDER OFFICE
DISTRICT OF MASSACHUSETTS
51 Sleeper Street, Fifth Floor
Boston, Massachusetts 02210
(617) 223-8061

DAVID I. BRUCK
220 Sydney Lewis Hall
Lexington, VA 24450
(540) 458-8188

June 3, 2014

Aloke Chakravarty
Nadine Pellegrini
William Weinreb
Assistant U.S. Attorneys
United States Courthouse
1 Courthouse Way, Suite 9200
Boston, Massachusetts 02210

Re: United States v. Dzhokhar Tsarnaev
Criminal No. 13-10200- GAO

Dear Counsel:

We were surprised to learn from your May 23, 2014 letter that Magistrate Judge Bowler's Deputy Clerk, Brendan Garvin, was present near the scene of the second explosion at the 2013 Boston Marathon. We are concerned that this information was not disclosed to us until almost 13 months after Mr. Tsarnaev's arrest. The revelation raises questions about whether others working for or closely connected to the prosecution or federal court in Massachusetts were directly affected by or were potential witnesses to, the charged crimes.

Given your unique access to information about the identity and employment of the victims and potential witnesses, we write to ask that you advise us whether any such individuals are employed in your office, the Department of Justice, law enforcement agencies involved in the prosecution of this case, or by the Court, the U.S. Marshal, U.S. Probation or Clerk's Office for the District of Massachusetts, or otherwise employed in one of the federal court houses in the District of Massachusetts. This information is relevant to a potential motion to recuse your offices or the federal court for the District of Massachusetts.

We would appreciate an immediate response.

Sincerely,

Judy Clarke

David I. Bruck

Judy Clarke

Miriam Conrad

William Fick

Timothy Watkins

Counsel for Dzhokhar Tsarnaev



U.S. Department of Justice

Carmen M. Ortiz
United States Attorney
District of Massachusetts

Main Reception: (617) 748-3100

John Joseph Moakley United States Courthouse
1 Courthouse Way
Suite 9200
Boston, Massachusetts 02210

June 18, 2014

BY E-MAIL AND HAND DELIVERY

Miriam Conrad, Esq.
Timothy Watkins, Esq.
William Fick, Esq.
Judy Clarke, Esq.
David Bruck, Esq.
Federal Defender's Office
51 Sleeper Street, 5th Floor
Boston, MA 02210

Re: United States v. Dzhokhar Tsarnaev, Crim. No. 13-10200-GAO

Dear Counsel:

We are writing in response to your letter of June 3, 2014, requesting discovery regarding the identity and employment of victims and potential witnesses for purposes of filing a potential recusal motion. We are aware of our own responsibilities with respect to recusal and we presume that court personnel are aware of theirs. Accordingly, we decline to respond to your discovery request.

Very truly yours,

CARMEN M. ORTIZ
United States Attorney

By: /s/Nadine Pellegrini
Nadine Pellegrini
Aloke Chakravarty
William Weinreb
Assistant U.S. Attorneys